



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition Nos.10315, 8782, 8790, 9941 & 9943 of 2024
and WMP Nos.11316, 11317, 11320 of 2024

W.P.No.10315 of 2024

1.Dr.S.Diravidamani

2.Thiru.G.Radhakrishnan

3.Dr.H.M.Priyadharsini

4.Dr.K.Dharaniswari

5.Dr.M.P.Rameshkumar

6.Thiru.K.Kannan

.... Petitioners

-Vs-

1.State of Tamil Nadu
Rep.by its Principal Secretary to Government
Higher Education Department
Secretariat, Chennai 600 009.

2.Director of Collegiate Education
Directorate of Collegiate Education
EVK Sampath Maligai
Chennai 600 006.

3.Periyar University
Rep.by its Registrar
Periyar Palkalai Nagar
Salem 636 011.



4. Government Arts & Science College
Rep. by its Principal
(formerly known as Periyar University College
of Arts & Science, Mettur)
Four Roads, Mettur
Salem District-636401.

5. Government of Tamilnadu
Rep. by its Chairman
Teachers Recruitment Board
3rd & 4th Floor, Puratchi Thalaivar
Dr.M.G.R.Centenary Building
Perasiriyar Anbazhagan Kalvi Valagam
College Road
Nungambakkam, Chennai 600 006.

.. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records from the respondent 1, 2 & 5 relating to the Notification No.02/2024 dt.14.03.2024 issued by the 5th respondent, quash the same insofar as it relates to the recruitment for the 6 posts of Assistant Professor (viz. 2 posts in English, 3 posts in Tamil and 1 post in Mathematics) for the 5th respondent College and to consequently direct respondents 1 to 2 to absorb the petitioners into the Tamil Nadu Collegiate Educational Services for Government Arts and Science Colleges by giving due seniority and other services benefits w.e.f 31.12.2015 the date on which the petitioners were appointed in the 4th respondent College and treat them on par with other Teaching staff working in the Government Arts and Science Colleges in Tamil Nadu for all service and other attendant benefits within a time frame fixed by this Court.



For Petitioners : Mr.K.Sinivasa Murthy

For Respondents : Mr.R.Neelakandan
Additional Advocate General
Asst.by:
Mr.C.Kathiravan
Standing Counsel
for R5

Mr.K.Surendran
Additional Government Pleader
for R1, R2 & R4

Ms.Mary Sowmi Texi
for M/s.Isaac Chambers
Standing Counsel
for R3

W.P.No.8782 of 2024

1.Dr.G.Anbalagan

2.Dr.P.Venkateshkumar

3.Dr.S.Chandrasekaran

4.Dr.C.Ushanandhini

5.Dr.M.Sathyabama

6.Dr.S.Ravi

7.Mrs.M.Jayachitra

8.Dr.P.Rajini

9.Mr.M.Veluchamy

10.Mr.C.Pradeep

.... Petitioners

-Vs-



1. Government of Tamil Nadu
Rep.by its Principal Secretary
Department of Higher Education
Fort St.George, Secretariat,
Chennai 600 009.
2. Director of Collegiate Education
Department of Higher Education
No.577, Anna Salai
Saidapet, Chennai-600 015.
3. Government Arts & Science College
Rep.by its Principal
Edapadi
Salem District.
4. The Teachers Recruitment Board
Rep.by its Secretary
3rd & 4th Floor, Puratchi Thalaivar
Dr.M.G.R.Centenary Building
Perasiriyar Anbazhagan Kalvi Valagam
College Road
Nungambakkam, Chennai 600 006.
3. Periyar University
Rep.by its Registrar
Palkalai Nagar
Salem 636 011.

.. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the 4th respondent herein culminating in Notification No.2 of 2024 dated 14.03.2024 and to quash the same to the extent the same has not taken into consideration the post of Assistant Professors in the 3rd respondent college being held by the petitioners herein and quash the same and consequently direct the respondents herein to accommodate the petitioners as regular employees in those vacancies declared under the impugned notification.



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For Petitioners : Mr.M.Santhanaraman

For Respondents : Mr.R.Neelakandan
Additional Advocate General
Asst.by:
Mr.C.Kathiravan
Standing Counsel
for R4

Mr.D.Ravichander
Special Government Pleader for R1 to R3

Ms.Mary Sowmi Texi
for M/s.Isaac Chambers
Standing Counsel for R5

W.P.No.8790 of 2024

1.Dr.S.Kumaran

2.Dr.M.Savitha Devi

3.Dr.J.Sakthi Kumaar

4.Mrs.D.Kalaivani

5.Dr.V.Sanjeevarayan

6.Mr.E.Senthilkumar

7.Mr.K.Gopinath

8.Mrs.M.Kalaimani

.... Petitioners

-Vs-

1.Government of Tamil Nadu
Rep.by its Principal Secretary
Department of Higher Education
Fort St.George, Secretariat,
Chennai 600 009.



2. Director of Collegiate Education
Department of Higher Education
No.577, Anna Salai
Saidapet, Chennai-600 015.

3. Government Arts & Science College
Rep. by its Principal
Edapadi
Salem District.

4. The Teachers Recruitment Board
Rep. by its Secretary
3rd & 4th Floor, Puratchi Thalaivar
Dr.M.G.R.Centenary Building
Perasiriyar Anbazhagan Kalvi Valagam
College Road
Nungambakkam, Chennai 600 006.

3. Periyar University
Rep. by its Registrar
Palkalai Nagar
Salem 636 011.

.. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the 4th respondent herein culminating in Notification No.2 of 2024 dated 14.03.2024 and to quash the same to the extent the same has not taken into consideration the post of Assistant Professors in the 3rd respondent college being held by the petitioners herein and quash the same and consequently direct the respondents herein to accommodate the petitioners as regular employees in those vacancies declared under the impugned notification.



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For Petitioners : Mr.M.Santhanaraman

For Respondents : Mr.R.Neelakandan
Additional Advocate General
Asst.by:
Mr.C.Kathiravan
Standing Counsel for R4

Mr.D.Ravichander
Special Government Pleader for R1 to R3

Ms.Mary Sowmi Texi
for M/s.Isaac Chambers
Standing Counsel for R5

W.P.No.9941 of 2024

1.Dr.P.Senthilkumar

2.Dr.A.Subha

3.Dr.R.Purushothaman

4.Dr.N.Ramesh

5.Mrs.C.S.Chitradevi

6.Dr.G.Ayyappan

7.Dr.R.Jayaraman

8.Dr.B.Sudha

9.Dr.V.Sangeetha

10.T.Arun Nehru

11.Dr.K.S.Kalyani

12.Dr.V.Pasupathi

.... Petitioners



-Vs-

- 1.The State of Tamil Nadu
Rep.by its Secretary
Higher Education
Fort St.George
Chennai 600 009.
- 2.Director of Collegiate Education
College Road, Chennai 600 006.
- 3.Periyar University
Rep.by its Registrar
Palkalai Nagar
Salem 636 011.

.. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to 3 to absorb the petitioners in the respective posts to which they were appointed from the date of their initial appointment with all other service benefits accrued thereto and to consequently extend the other service dues as had been granted and extended to other similar situations.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.D.Ravichander
Special Government Pleader
for R1 & R2

Ms.Mary Sowmi Texi
for M/s.Isaac Chambers
Standing Counsel
for R3



W.P.No.9943 of 2024

- 1.Dr.K.Srinivasan
- 2.Dr.P.Suganeshwaran
- 3.Dr.K.Kannusamy
- 4.Dr.M.Bharathi
- 5.Dr.B.Kathirvel
- 6.Dr.R.Elavarasan
- 7.Dr.S.Shakila Sherif
- 8.Dr.G.Venkatasalam

.... Petitioners

.Vs.

- 1.The State of Tamil Nadu
Rep.by its Secretary
Higher Education
Fort St.George
Chennai 600 009.
- 2.Director of Collegiate Education
College Road, Chennai 600 006.
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Rep.by its Registrar
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.. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to 3 to absorb the petitioners in the respective posts to which they were appointed from the date of their initial appointment with all other service benefits accrued thereto and to consequently extend the other service dues as had been granted and extended to other similar situations.



For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.D.Ravichander
Special Government Pleader for R1 & R2

Ms.Mary Sowmi Texi
for M/s.Isaac Chambers
Standing Counsel for R3

COMMON ORDER

The issue involved in all these writ petitions are common and hence, all these writ petitions are taken up together, heard and disposed of through this common order.

2.WP.Nos,10315, 8782 and 8790 of 2024, have been filed challenging the Notification No.2/2024, dated 14.03.2024 issued by the Teachers Recruitment Board insofar as it relates to the recruitment to the post of Assistant Professor relatable to the Constituent Colleges of Periyar University and for a direction to the State of Tamil Nadu and Director of Collegiate Education to absorb the petitioners into the Tamil Nadu Collegiate Educational Services in Government Arts and Science Colleges and treat them on par with the teaching staff working in the Arts and Science Colleges in Tamil Nadu and to extend all other attendant benefits.

3.WP.Nos.9941 and 9943 of 2024, has been filed for the issue of a writ of mandamus directing the respondents 1 to 3 to absorb the petitioners into the Tamil



Nadu Collegiate Educational Services for Government Arts and Science Colleges and treat them on par with the teaching staff working in the Arts and Science Colleges in Tamil Nadu and to extend all other attendant benefits.

4.The common issue that is involved in all these writ petitions was dealt with by this Court and an earlier order was passed by this Court on 03.09.2024. For proper appreciation, the entire order is extracted hereunder:

This writ petition has been filed challenging the notification dated 14.03.2024 issued by the 5th respondent namely the Teachers Recruitment Board to the post of Assistant Professors and for a consequential direction to the respondents 1 & 2 to absorb the petitioners into the Tamil Nadu Collegiate Educational services for Government Arts and Science Colleges by giving due seniority to the petitioners and affording them with all service benefits from the date of their appointment in the 4th respondent college.

2.Mr.N.G.R.Prasad, learned counsel appearing on behalf of the petitioners submitted that there are 41 constituent colleges across the State of Tamil Nadu, out of which 5 colleges are attached to the Periyar University. One such college is the 4th respondent. The learned counsel further submitted that the posts were duly sanctioned by the 1st respondent. The petitioners numbering 6 underwent a proper selection process and they were appointed on 31.12.2015. They also completed their probation and their services were regularized in the year 2016.

3.The learned counsel submitted that 1st respondent Government



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decided to take over 41 University constituent colleges functioning under various Universities throughout Tamil Nadu and bring it within the control of the Directorate of Collegiate Education. G.O.Ms.No.36 dated 28.02.2019 was issued in this regard. As a first step, 14 constituent colleges including 2 colleges that were attached to the Periyar University was taken over. The learned counsel submitted that when the Government decided to take over the colleges, they should have also taken over the staff who were working in the colleges and more particularly where such staff were appointed in a sanctioned post by following the proper procedure and possess the necessary qualifications as prescribed by the UGC. The learned counsel further submitted that till the 4th respondent college was taken over by the Government, the University was paying the salaries from the funds sanctioned by the Government. Thereafter, the petitioners are paid their salary directly by the Government. Such direct payment started from the year 2022 onwards.

4.The learned counsel submitted that the grievance of the petitioners is that a notification was issued by the 5th respondent dated 14.03.2024 to fill up the posts of Assistant Professors in Tamil Nadu Collegiate Educational Service. Totally 4000 vacancies are sought to be filled up and unfortunately, the posts that are occupied by the petitioners has also been added to the total vacancy and thereby, an attempt is now being made to displace the petitioners. It is under these circumstances, the present writ petition was filed before this Court.

5.The respondents 1, 2 & 4 have filed counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:



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"3.I state that, petitioners were appointed by Periyar University as teaching faculties in the constituent college of Salem, Periyar University. Subsequently out of 41 Constituent Colleges 14 Constituent Colleges were converted into Government Arts and Science Colleges vide G.O.(Ms.)No.36, Higher Education(G1) Department, dated:28.02.2019 and the teaching staff were not absorbed into the University and Government had allowed the petitioners to continue in the same converted Government Colleges on deputation basis until the Government fill up those posts in the Government College on regular basis or when University take back the staffs to University service,when vacancy arise, which ever is earlier.

I further state that, Government conducted meeting with all Registrars of the Universities for smooth transition of the administrative control of the University Constituent Colleges into Government Colleges. After detailed deliberations with the Registrars, the Principal Secretary has decided on the basis of the discussions as follows:

"The Permanent / Temporary staff appointed by the Universities,based on the orders issued at the time of opening. of Constituent Colleges, it was instructed that as ordered in the Government Orders they may be allowed to continue in the converted Government Colleges on deputation basis, till such time she posts are filled by the Director of Collegiate Education with regular staff or till vacancy arises in the university, which ever is earlier and they shall go back to the University concerned at a given point of time".

4.I state that, Petitioners were appointed as teaching faculties since May 2015 in various departments by the Periyar University,



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based on the UGC Norms, 200 point reservation policy rules and prevailing Government Orders in force and also following the roster and placed them in the constituent colleges and getting UGC scale of pay. After converted into Government Colleges, they were allowed to continue their service in the colleges till such posts are-filled by Government on regular basis or taken back to the University, which ever is earlier. But those staffs have not yet been absorbed into University. This is purely administrative side decision between the petitioners and Periyar University authorities who is the competent authority and Government has no role to play in this regard.

5.It is further submitted that, petitioners were appointed by the selection committee of the Periyar University, after verifying all the eligibility conditions like qualification, norms, etc., and accordingly appointed during the year 2015 and placed them in the Constituent Colleges. Their services have been regularised and probation were declared and all the petitioners were approved probationers and getting UGC scale of pay since 2015. That being so, the Constituent Colleges were converted into Government Colleges as per G.O.(Ms.)No.36, Higher Education (G1) Department, Dated:28.02.2019. At that point it was appropriated that the Teaching and Non-teaching staff ought to have absorbed back to the University. But the University failed to do so. The Government accepted to allow them to retain in the Government Colleges subject to the condition as stated in para 3(viii) of G.O.(Ms.)No.186, Higher Education (G1) Department, dated: 22.09.2022 that the permanent and temporary teaching and non teaching staff will be allowed to continue in the same colleges on deputation basis and will be sent back to the University



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service when ever vacancy arises or the posts been filled up by the Government which ever is earlier.

6.It is submitted that, consequent to the proposal of the constituent college staff, G.O.(Ms.)No.36, Higher Education (G1) Department, 28.02.2019 has been issued, wherein it is stated that their rights has been accepted and they were allowed to continue their service in the respective erstwhile constituent colleges on deputation basis, and if those regular sanctioned posts are filled up by the Government, then they have to move to their respective University without prejudice.

7.It is submitted that petitioners were appointed in a sanctioned posts in the erstwhile constituent colleges, by fulfilling all the eligibilities and entered into University service. The main contention of their plea is meagre vacancies will arise in the University side and hence they prayed in this Writ Petition to absorb them into the Government Colleges. As such so and if the petitioners are really aggrieved, they should have challenged the G.O.(Ms.)No.36, Higher Education (G1)Department, dated:28.02.2019 and G.O.(Ms.)No.186, Higher Education(G1) Department, dated:22.09.2022 at the time of issuance of such Government Orders. But the petitioners have filed this Writ Petition only after the notification for appointing regular faculties through Teacher Recruitment Board for 4000 Assistant Professor was issued vide Notification No.02/2024, dated.14.03.2024 for the better chance known only to them. It is further submitted that, since the petitioners are working on deputation basis, they doesn't have the right to agitate against filling up of regular faculty by the Teachers Recruitment Board, which is the competent authority to appoint



Assistant Professors for Government Arts and Science Colleges.”

6.The learned Additional Government Pleader appearing on behalf of the respondents 1, 2 & 4 submitted that even though the petitioners were appointed by a selection committee of Periyar University after verifying all their eligibility conditions and the services of the petitioners have also been regularized and probation has been declared, by virtue of the college being taken over by the Government as per G.O.Ms.No.36 dated 28.02.2019, the petitioners are permitted to continue in the same college only on deputation basis and they will be sent back to the University service whenever vacancy arises or where the concerned posts are filled up by the Government, whichever is earlier.

7.The learned Additional Government Pleader submitted that such a stipulation was provided in the Government Order itself and till this Government Order is put to challenge, the petitioners cannot be permitted to question the policy decision taken by the Government by merely challenging the Recruitment Notification issued by the Teachers Recruitment Board. In view of the same, the learned Additional Government Pleader reiterated the stand taken by the respondents in the counter affidavit.

8.The learned Additional Advocate General appearing on behalf of the Teachers Recruitment Board submitted that the Recruitment Board as such has no say in the policy decision taken by the Government. The Government had granted permission to the Recruitment Board to fill up 4000 vacancies for appointment to the posts of Assistant Professors in Tamil Nadu Collegiate Educational



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Services for Government Arts and Science Colleges and for Government Colleges of Education. This decision taken by the Government is been carried out by the Recruitment agency namely, the 5th respondent. The learned Additional Advocate General further submitted that the number of vacancies that are notified is only tentative and is subject to any modification with reference to the vacancy position given by User Department before finalization of selection. Till date, only the applications have been received by the Recruitment Board and there is no further progress. The learned Additional Advocate General by pointing out to the counter filed by the 5th respondent submitted that a policy decision has been taken by the Government and normally the Courts do not interfere with such policy decisions. Hence, it was contended that the grievance that has been raised by the petitioners cannot be redressed by the Recruitment Board and it is for the Government to take a decision.

9. The learned Standing Counsel appearing on behalf of the Periyar University submitted that two of the Constituent Colleges attached to Periyar University have been taken over by the Government. The effect of such take over is governed by G.O.Ms.No.36 dated 28.02.2019. Once the Constituent Colleges have been take over, the University will not be in a position to accommodate the staffs who are already appointed and who belong to those two colleges. The University has also expressed its inability to take back the petitioners and to accommodate them in any of the Constituent Colleges attached to the University. The learned counsel therefore submitted that the grievance that has been expressed by the petitioners can only be redressed by the Government and the University does not



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have any say in this case.

10. On carefully considering the submissions made on either side and the materials available on record, this Court is able to come to a *prima facie* conclusion that the appointment of the petitioners has been done in a proper manner. The appointments have been made in sanctioned posts. The appointment was made by adopting the proper procedure and the persons who have been appointed also possess the necessary qualifications prescribed by UGC. This fact has not been denied by the 1st respondent even in the counter affidavit. The 1st respondent has reiterated the fact that the petitioners have been appointed in a proper manner and their services have also been regularized and their probation has also been declared. That apart, the petitioners are also getting the UGC scale of pay from the year 2015 onwards. It is the Government which had provided the funds for payment of salaries to the petitioners.

11. When the Government takes over the college, it is left open to the Government to also take a decision with respect to the manner in which it is going to deal with the staffs who are already working in those colleges. If in a case where illegal appointments were made or several irregularities have crept in at the time of appointment or where the appointments are purely contractual in nature or it is a temporary appointment on consolidated pay, in those circumstances, it is always left open to the Government to take a call since those persons cannot seek for regularization of their services as a matter of right considering the status of their appointment. However, when it comes to regular staff who are appointed by following the proper procedure in the sanctioned posts, the Government as a model employer is expected to take over



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the staff also along with the Institution. The Government cannot take a stand that those regular staffs who have been properly appointed will continue on deputation basis and they will be dislodged at some future point of time whenever the Government take steps to fill up those vacancies which are held by regular staff. On a demurer, even assuming that the Government wants to fill up the posts, the Government is going to insist for the same qualification and it is going to be for the same sanctioned post and the salary that is going to be paid is also going to be the same scale of pay which is received by the petitioners. Therefore, it really does not make any sense to dislodge the petitioners who have been regularly appointed by following the proper procedure and appoint some one else in the same post. On the one hand, a model employer can never adopt such a process and on the other hand, it will be a complete waste of time to undertake such a process to displace persons who are regularly appointed and fill up the same post with persons who are possessing the same qualification.

12.The Government cannot come up with a hyper technical stand that the petitioners have not challenged the Government Order. The petitioners are not concerned about the Government Order issued in G.O.Ms.No.36 dated 28.02.2019 and they have no grievance in the Constituent Colleges being taken over by the Government. Their only concern is about their status as Assistant Professor should be continued even after the Government takes over the colleges. In view of the same, it is not necessary for the petitioners to challenge the Government Order.

13.On a careful reading of the Government Order, it is seen that the Government is intending to take over all the 41 Constituent



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Colleges. The Government wants to do it in phases. As a first step, 14 Constituent Colleges have been taken over. The learned Standing Counsel appearing on behalf of the Periyar University submitted that totally 96 teaching staffs and 40 non-teaching staffs were regularly appointed in the 5 Constituent Colleges attached to Periyar University.

14.The Government has to necessarily take a call on this issue considering the fact that the Court expects the Government to be a model employer who will consider taking the Institutions along with the regular staff who have been appointed after following all the procedures in sanctioned posts. It is brought to the notice of this Court that in those 41 Constituent Colleges, nearly 139 posts alone has been filled up by following the proper procedure. The petitioners also fall within this category. Hence, this Court wants the Government to consider the same and safeguard the interest of those staffs who have been properly appointed and take over them along with the Institution which is taken over by the Government. Once this is identified, the total vacancy can be reduced and a modified instruction can be issued to the Teachers Recruitment Board to go ahead with the selection process for those identified vacancies.

15.Even if the Government is not able to take an immediate decision in this regard, atleast the appointment and selection of the petitioners can be safeguarded and their posts need not be added in the total vacancies and they can be absorbed into the Tamil Nadu Collegiate Educational Services for the Government Arts and Science Colleges.

16.Post this case under the caption 'for passing final orders' on



03.10.2024.

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5.The matter was once again listed for hearing on 19.10.2024 and the learned Special Government Pleader appearing on behalf of the State of Tamil Nadu and Directorate of Collegiate Education sought for sometime to take instructions on the follow up of the earlier order passed by this Court on 03.09.2024. Accordingly, all these writ petitions were listed for hearing today.

6.The learned Special Government Pleader produced the written instructions received from the Commissioner of Collegiate Education. The relevant portions are extracted hereunder:

It has been clearly stated in Para 3(vii) of G.O.(Ms).No.36 Higher Education (G1) Department, dated : 28.02.2019 that the regular teaching and non teaching staff now working will be retained in the university departments and administrative posts respectively. It is further stated in the order that these staff will work on deputation basis, till such time they are taken back to the Universities in the arising vacancies.

It is also submitted that, as per G.O.(Ms).No.186, Higher Education (G1) Department, dated 22.09.2022, it has been specifically stated that the regular and temporary teaching staff now working in these colleges are working on deputation basis after conversion as Government Colleges and they will be allowed till such time they are reverted back to the University or the post



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being filled up with regular Govern staff whichever is earlier.

With regard to the daily orders 2nd cited, it is submitted that, as far as the appointment of Assistant Professors in Government Art and Science Colleges is done only through Tamil Nadu Teacher Recruitment Board (TRB). Though the qualification for appointing Assistant Professors for Government Arts and science Colleges are almost same, the mode of appointment differs between University and TRB. While being so absorbing the regular teaching staff of Periyar University may become a sort of back door entry which can not be encouraged.

It is further submitted that, Government made frequent meetings with the Registrar of concerned Universities before converting the Constituent Colleges into Government Arts and Science Colleges. In which various discussion was made and the Registrars of the Universities have expressed the willingness to take back the teaching and non teaching staffs appointed by the Universities into University service. Only after their acceptance to take back the employees of the University to University service, Government took a policy decision of converting the 41 Constituent Colleges into Government Colleges by stating the condition that teaching and non teaching staff appointed by the University are allowed to continue in the colleges on deputation basis till such time the posts are being filled up by the Government which ever is earlier.

It is submitted that since the petitioners are appointed by



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Universities, the sole responsibility of absorbing them into University service remains on the hand of the University Registrar. The Director of Collegiate Education and the Government are not the competent authority to absorb the staff appointed by the Universities into Tamil Nadu Collegiate Education Service. Since they are working on deputation basis on the erstwhile constituent colleges, salary only will be paid to them by the concerned college.

The petitioner have stated that the University has expressed the inability to take over the staff on 27.10.2022. It is also to state that, the Periyar University vide proceedings பெ.ப/ப/ Estt.R5/முதல்வர்கள் பணிமாறுதல் /2023, Dated: 13.01.2023 have taken back the regular Principals appointed by the Periyar University to the University service by appointing them as some other equal post.

It is further submitted that, the scale of pay for teachers (Assistant Professor) in University and Government Colleges are equal. Even through there are no vacancy available in the University, if the staffs are appointed by Government, University can take the staff to the University service where nomenclature of the post may be changed accordingly with pay protected, which will not affect any one, as like Periyar University took back the regular Principals to University service and posted them to various other departments available in the said University.

Hence, it is humbly submitted that, the petitioners will not



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be affected with regard to the notification for appointing 4000 Assistant Professors in Government Arts and Science Colleges. Following the Government Order, the University concerned must take appropriate action to take back the staff into University service who are now working on deputation basis in the erstwhile constituent colleges.

7. Heard the counsel appearing on either side.

8. The earlier order passed on 03.09.2024, more or less deals with the issue that is involved and the action that has to be taken by the Government as a model employer. The written instructions received from the Commissioner of Collegiate Education makes it clear that the teaching and non-teaching staffs are going to be treated only on deputation basis till such time they are taken back by the University in the arising vacancies or till those posts are filled up with regular Government staff, whichever is earlier. The official respondents have taken a stand that the responsibility of absorbing the petitioners is vested with the University and the Government or the Director of Collegiate Education cannot absorb the staff belonging to the University into the Tamil Nadu Collegiate Education Service. It is also stated that the Government had frequent meetings with the Registrar of the concerned Universities before converting the constituent colleges into Government Arts and Science Colleges and the Registrars expressed their willingness to take back the teaching and non-teaching staffs appointed by the Universities into the University



service. Only on such assurance, the Government took a policy decision to take over the 41 constituent colleges and convert the same as Government colleges.

9.The learned Standing Counsel appearing on behalf of the Periyar University submitted that the University has made its stand very clear that the staff who were appointed in the constituent colleges are not the staff of the University and therefore, there is no question of absorbing them in the Periyar University. To substantiate the same, the learned Standing Counsel relied upon the communication dated 11.10.2021, made to the Directorate of Collegiate Education and the relevant portions are extracted hereunder:

பார்வை 1, 2, 3, 4 மற்றும் 5 ஆகிய தமிழக அரசாணைகளின் படி அனைத்துப் பணியிடங்களும் சார்ந்த கல்லூரிகளுக்கானப் பணியிடங்களாக மட்டுமே தோற்றுவிக்கப்பட்டன. **பெரியார் பல்கலைக் கழகத்தின் பணியிடங்களாகத் தோற்றுவிக்கப்படவில்லை.** பல்கலைக் கழக கல்லூரிகளின் பணியிடங்களான நிர்வாகப் பணியிடங்களும் ஆசிரியர் பணியிடங்களும் நிதித் துறையின் ஒப்புதலோடு இட ஒதுக்கீட்டின் அடிப்படையிலும் சுழற்சி முறையின் அடிப்படையிலும் காலிப் பணியிடங்கள் தோற்றுவிக்கப்பட்டுள்ளன. கல்லூரியின் காலிப் பணியிடங்கள் கல்லூரிகளுக்கான சுழற்சி மற்றும் இட ஒதுக்கீட்டின் அடிப்படையில் மட்டுமே தோற்றுவிக்கப்பட்டுள்ளன.

பார்வை (9) கண்டுள்ள கடிதத்தில் பெரியார் பல்கலைக்கழக உறுப்புக் கலை மற்றும் அறிவியல் கல்லூரி, (அரசு கலை மற்றும் அறிவியல் கல்லூரிகள்) மேட்டூர், எடப்பாடி (சேலம் மாவட்டம்) பென்னாகரம், அரூர், பாப்பிரெட்டிப்பட்டி (தருமபுரி மாவட்டம்) ஆகிய கல்லூரிகளில் பணியாற்றும்



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முதல்வர்கள், ஆசிரியர்கள் மற்றும் ஆசிரியரல்லாப் பணியாளர்களையும் அரசுக் கல்லூரி ஆசிரியர் மற்றும் ஆசிரியரல்லாப் பணியாளர்களாக அறிவிப்பதற்கு தமிழக அரசு உரிய அரசாணை வெளியிட பரிந்துரை செய்ய வேண்டுமென கேட்டுக்கொண்டுள்ளார்கள்.

எனவே, மேற்கண்ட அரசாணைகளின்படி, 5 உறுப்புக்கல்லூரிகளில் நிரந்தரப் பணியாளர்களாக பணியாற்றும் முதல்வர்கள், ஆசிரியர்கள் மற்றும் ஆசிரியரல்லா பணியாளர்களை அவர்கள் சார்ந்த கல்லூரிகளிலேயே அரசு கல்லூரி ஊரியர்களாக பணியாற்ற ஆணை பிறப்பிக்க ஆவன செய்யுமாறு இக்கடிதம் மேலனுப்பப்படுகிறது.

10.The learned Standing Counsel also relied upon the subsequent communication dated 27.10.2022, made to the Directorate of Collegiate Education, wherein the earlier stand was reiterated and it was made clear that the staff belonging to the constituent colleges cannot be absorbed by the University.

11.The learned Special Government Pleader on instructions submitted that the scale of pay for teachers [Assistant Professor] in the University and in the Government colleges are equal and this is in view of the fact that the UGC pay scales are applied across the Board.

12.The discussions that took place between the Government and the Registrar belonging to various Universities before the Government decided to take over the constituent colleges, may not be of any relevance while dealing with the rights of the petitioners and similarly placed persons who are now working in those Government colleges after it was taken over. As observed in the earlier order passed on



03.09.2024, the petitioners and other similarly placed persons are regular teaching staffs who were appointed by following proper procedure in sanctioned posts and were paid the UGC scale of pay. If the petitioners and other similarly placed persons are going to be dislodged and fresh Assistant Professors are going to be appointed in such vacancy, it will defy reasoning. The persons who are going to be newly appointed as Assistant Professors will carry the same qualifications and they will be paid the same scale of pay and therefore, to undertake such an exercise by dislodging the petitioners and similarly placed persons is illogical and unwarranted. In fact, the concerned colleges will be losing teaching staff who also have experience acquired over a period of time and are going to be replaced by a fresh batch of Assistant Professors, who have no experience. Looking at this case from any angle, there is absolutely no reason as to why the petitioners and similarly placed persons must be dislodged from the respective colleges and new appointees must take over their position.

13.This Court already held that the Government is expected to be a model employer and the Government should not dislodge the petitioners and the similarly placed persons by adding the posts held by them in the recruitment Notification.

14.The learned Standing Counsel appearing on behalf of the Periyar University submitted that there are totally 63 Assistant Professors who were working in the



constituent colleges of Periyar University.

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15. In the light of the above discussion, the impugned Notification issued by the Teachers Recruitment Board dated 14.03.2024, is interfered insofar as it relates to filling up the post of Assistant Professors working in the constituent colleges of Periyar University. This includes the petitioners and others who are similarly placed and who are working in the constituent colleges of Periyar University. The posts held by them should not be included in the total vacancy shown in the Notification dated 14.03.2024. The selection can go on for the remaining vacant posts. There shall also be a consequential direction to 1st and 2nd respondents to absorb the petitioners into

Tamil Nadu Collegiate Educational Services for Government Arts and Science Colleges and extend all the attendant service and monetary benefits on par with other teaching staff working in the Government Arts and Science Colleges in Tamil Nadu. An order to this effect shall be passed by the 1st and 2nd respondents, within a period of eight weeks from the date of receipt of copy of the order.

16. In the result, all these writ petitions are allowed with the above directions. No costs. Consequently, all the connected miscellaneous petitions are closed.

22.10.2024



Index : Yes/No

NCS : Yes/No

KP

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To

1.The Principal Secretary to Government
State of Tamil Nadu
Higher Education Department
Secretariat, Chennai 600 009.

2.Director of Collegiate Education
Directorate of Collegiate Education
EVK Sampath Maligai
Chennai 600 006.

3.The Registrar
Periyar University
Periyar Palkalai Nagar
Salem 636 011.

N.ANAND VENKATESH, J.

KP

4.The Principal
Government Arts & Science College
(formerly known as Periyar University College
of Arts & Science, Mettur)
Four Roads, Mettur
Sale District-636401.

5.The Chairman
Government of Tamilnadu
Teachers Recruitment Board
3rd & 4th Floor, Puratchi Thalaivar
Dr.M.G.R.Centenary Building
Perasiriyar Anbazhagan Kalvi Valagam



College Road, Nungambakkam,
Chennai 600 006.

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**W.P. Nos.10315, 8782, 8790,
9941 & 9943 of 2024**

22.10.2024